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**Introduced by Senator Hertzberg**

January 15, 2016

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An act to amend Section 640 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 882, as introduced, Hertzberg. Crimes: public transportation: minors.

Existing law makes it an infraction or a misdemeanor to evade the payment of a fare on a public transit system, to misuse a transfer, pass, ticket, or token with the intent to evade the payment of a fare, or to use a discount ticket without authorization or fail to present, upon request from a transit system representative, acceptable proof of eligibility to use a discount ticket.

This bill would prohibit the minor from being charged with an infraction or a misdemeanor for those acts.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 640 of the Penal Code is amended to  
2     read:  
3     640. (a) (1) Any of the acts described in paragraphs (1) to (6),  
4     inclusive, of subdivision (b) is an infraction punishable by a fine  
5     not to exceed two hundred fifty dollars (\$250) and by community  
6     service for a total time not to exceed 48 hours over a period not to  
7     exceed 30 days, during a time other than during the violator's hours  
8     of school attendance or employment. ~~Any~~ *Except as provided in*  
9     *subdivision (g), any* of the acts described in paragraphs (1) to (3),

1 inclusive, of subdivision (c), upon a first or second violation, is  
2 an infraction punishable by a fine not to exceed two hundred fifty  
3 dollars (\$250) and by community service for a total time not to  
4 exceed 48 hours over a period not to exceed 30 days, during a time  
5 other than during the violator's hours of school attendance or  
6 employment. ~~A~~ *Except as provided in subdivision (g), a third or*  
7 *subsequent violation of any of the acts described in paragraphs (1)*  
8 *to (3), inclusive, of subdivision (c) is a misdemeanor punishable*  
9 *by a fine of not more than four hundred dollars (\$400) or by*  
10 *imprisonment in a county jail for a period of not more than 90*  
11 *days, or by both that fine and imprisonment. Any of the acts*  
12 *described in subdivision (d) shall be punishable by a fine of not*  
13 *more than four hundred dollars (\$400), by imprisonment in a*  
14 *county jail for a period of not more than 90 days, or by both that*  
15 *fine and imprisonment.*

16 (2) This section shall apply only to acts committed on or in a  
17 facility or vehicle of a public transportation system.

18 (b) (1) Eating or drinking in or on a system facility or vehicle  
19 in areas where those activities are prohibited by that system.

20 (2) Playing unreasonably loud sound equipment on or in a  
21 system facility or vehicle, or failing to comply with the warning  
22 of a transit official related to disturbing another person by loud or  
23 unreasonable noise.

24 (3) Smoking in or on a system facility or vehicle in areas where  
25 those activities are prohibited by that system.

26 (4) Expectorating upon a system facility or vehicle.

27 (5) Skateboarding, roller skating, bicycle riding, roller blading,  
28 or operating a motorized scooter or similar device, as defined in  
29 Section 407.5 of the Vehicle-~~Code~~ *Code*, in a system facility,  
30 vehicle, or parking structure. This paragraph does not apply to an  
31 activity that is necessary for utilization of the transit facility by a  
32 bicyclist, including, but not limited to, an activity that is necessary  
33 for parking a bicycle or transporting a bicycle aboard a transit  
34 vehicle, if that activity is conducted with the permission of the  
35 transit agency in a manner that does not interfere with the safety  
36 of the bicyclist or other patrons of the transit facility.

37 (6) Selling or peddling any goods, merchandise, property, or  
38 services of any kind whatsoever on the facilities, vehicles, or  
39 property of the public transportation-~~system~~, *system* if the public  
40 transportation system has prohibited those acts and neither the

1 public transportation system nor its duly authorized representatives  
2 have granted written consent to engage in those acts.

3 (c) (1) Evasion of the payment of a fare of the system. For  
4 purposes of this section, fare evasion includes entering an enclosed  
5 area of a public transit facility beyond posted signs prohibiting  
6 entrance without obtaining valid fare, in addition to entering a  
7 transit vehicle without valid fare.

8 (2) Misuse of a transfer, pass, ticket, or token with the intent to  
9 evade the payment of a fare.

10 (3) (A) Unauthorized use of a discount ticket or failure to  
11 present, upon request from a transit system representative,  
12 acceptable proof of eligibility to use a discount ticket, in  
13 accordance with Section 99155 of the Public Utilities Code and  
14 posted system identification policies when entering or exiting a  
15 transit station or vehicle. Acceptable proof of eligibility must be  
16 clearly defined in the posting.

17 (B) If an eligible discount ticket user is not in possession of  
18 acceptable proof at the time of request, ~~any~~ a citation issued shall  
19 be held for a period of 72 hours to allow the user to produce  
20 acceptable proof. If the proof is provided, the citation shall be  
21 voided. If the proof is not produced within that time period, the  
22 citation shall be processed.

23 (d) (1) Willfully disturbing others on or in a system facility or  
24 vehicle by engaging in boisterous or unruly behavior.

25 (2) Carrying an explosive, acid, or flammable liquid in a public  
26 transit facility or vehicle.

27 (3) Urinating or defecating in a system facility or vehicle, except  
28 in a lavatory. However, this paragraph shall not apply to a person  
29 who cannot comply with this paragraph as a result of a disability,  
30 age, or a medical condition.

31 (4) Willfully blocking the free movement of another person in  
32 a system facility or vehicle. This paragraph shall not be interpreted  
33 to affect any lawful activities permitted or First Amendment rights  
34 protected under the laws of this state or applicable federal law,  
35 including, but not limited to, laws related to collective bargaining,  
36 labor relations, or labor disputes.

37 (5) Willfully tampering with, removing, displacing, injuring,  
38 or destroying any part of ~~any~~ a facility or vehicle of a public  
39 transportation system.

(e) Notwithstanding subdivision (a), a public transportation agency, as defined in paragraph (4) of subdivision (c) of Section 99580 of the Public Utilities Code, may do either of the following:

(1) Enact and enforce an ordinance providing that a person who is the subject of a citation for any of the acts described in subdivision (b) of Section 99580 of the Public Utilities Code on or in a facility or vehicle described in subdivision (a) for which the public transportation agency has jurisdiction shall, under the circumstances set forth by the ordinance, be afforded an opportunity to complete an administrative process that imposes only an administrative penalty enforced in a civil proceeding. The ordinance for imposing and enforcing the administrative penalty shall be governed by Chapter 8 (commencing with Section 99580) of Part 11 of Division 10 of the Public Utilities Code.

(2) Enforce as an infraction pursuant to subdivision (b) the act of failing to yield seating reserved for an elderly or disabled person in a facility or vehicle for which the public transportation agency has jurisdiction, provided that the governing board of the public transportation agency enacts an ordinance to that effect after a public hearing on the issue.

(f) For purposes of this section, a “facility or vehicle of a public transportation system” means any of the following:

(1) A facility or vehicle of a public transportation system as defined by Section 99211 of the Public Utilities Code.

(2) A facility of, or vehicle operated ~~by any~~ *by, an* entity subsidized by, the Department of Transportation.

(3) A facility or vehicle of a rail authority, whether owned or leased, including, but not limited to, any part of a railroad, or track of a railroad, or any branch or branchway, switch, turnout, bridge, viaduct, culvert, embankment, station house, or other structure or fixture, or any part thereof, attached or connected to a railroad.

(4) A leased or rented facility or vehicle for which any of the entities described in paragraph (1), (2), or (3) incurs costs of cleanup, repair, or replacement as a result of any of those acts.

*(g) A minor shall not be charged with an infraction or a misdemeanor for violation of paragraphs (1) to (3), inclusive, of subdivision (c).*